Dissenting Views on H.R. 2555, "Homeowners' Defense Act of 2010"

H.R. 2555, the Homeowner Defense Act, is ill-advised and unwarranted legislation that proposes to create new Federal programs that would shift the financial risks of property owners in catastrophe-prone states to U.S. taxpayers. This fiscally reckless and irresponsible measure would expose all Federal taxpayers to massive new liabilities that could potentially total billions of dollars. The bill would also undermine private insurance and reinsurance markets by setting up the Federal government to sell reinsurance and provide new debt guarantees; create new moral hazards by undermining market-based incentives for mitigation and risk management; and put taxpayers on the hook for yet another Federal bailout in the event that a state catastrophe insurance program cannot meet its obligations.

According to an estimate by the Congressional Budget Office (CBO), H.R. 2555 would cost $1.7 billion over five years. We believe this estimate may represent only the tip of the iceberg. CBO expects that `premiums charged for the federal reinsurance program would be inadequate to compensate the government for the cost of that coverage.' The CBO report also expresses the concern that `consumer and political pressures directed toward the proposed federal program would likely create a strong incentive for its managers to keep reinsurance premiums low . . .' In addition, referring to the proposed catastrophic obligation guarantee program, the CBO report warns that `if a large-scale natural disaster were to occur and if a state program were to default, spending would be much greater than the expected costs included in this estimate.'

A broad range of taxpayer rights and environmental organizations have expressed strong opposition to H.R. 2555. In recent subcommittee testimony, the non-partisan budget watchdog group, Taxpayers for Common Sense asserted that `H.R. 2555 is fundamentally flawed' and `would actually end up putting taxpayers at risk and subsidizing people to live in harm's way. Taxpayers across the country would be forced to pay for a narrow bailout that primarily helps the well off. It doesn't make sense.'

In addition, the Smarter Safer Coalition, which includes environmental groups, taxpayer organizations and insurance industry representatives, strongly opposes H.R. 2555 because it would cost taxpayers billions of dollars, discourage the insurance and reinsurance private market, and result in incentives to build in unsafe and environmentally fragile areas. According to the Coalition, H.R. 2555 `creates a federal bailout program principally designed to benefit hurricane-threatened Florida at the expense of taxpayers in all 50 states. The legislation supports a Florida system that is based on artificially low premiums. Such a system encourages risky development behavior. It is a cost the federal government and taxpayers cannot afford.'

Furthermore, according to recent testimony by the National Wildlife Federation, the environmental community is concerned that `H.R. 2555 would create incentives for other states to create Florida-like state CAT funds, sending a signal that states could begin to move away from more sound policies toward higher risks and subsidies such as Florida has.' The Federation witness also stated, `In the long run we believe the overall effect of the legislation would be to exacerbate natural hazard risks and costs to homeowners and ultimately to the U.S. taxpayers. As a result, the National Wildlife Federation opposes H.R. 2555 in its current form.'

Natural catastrophes can be financially devastating to many of our citizens, and securing adequate insurance coverage against property losses is an ongoing challenge for some homeowners, businesses and communities located in certain high-risk regions of the United States. When the private insurance and reinsurance markets are allowed to function and charge premium rates based on actuarially sound data that projects the risk of losses, there is typically ample competition and an abundant supply of insurance capacity. After major storms, rates may increase, in some cases substantially, and availability may decrease as insurers seek to manage their risk more conservatively. While these insurance rate and availability fluctuations may present challenges for many people in the affected regions, they are part of the cost of living in high-risk areas.

In particular, the State of Florida faces extraordinary challenges in maintaining stable private insurance markets to provide financial protection against hurricanes and the severe and widespread property damage they can cause. While Florida has taken tentative steps recently to permit insurance premium rates to begin increasing gradually over time, rates have been artificially restrained for many years and remain far short of being actuarially sound and commensurate with the projected risk. Government-imposed rate controls, while they can provide short-term rate relief in the form of subsidized insurance premiums, will over time undermine the goal of maintaining competitive private insurance and reinsurance markets. Rate controls and premium subsidies will also erode market-based incentives for prudent risk management and loss mitigation.

After Hurricane Andrew in 1992, Florida established the Hurricane Catastrophe Fund as a tax-exempt state trust fund to provide insurance companies with reimbursement for a portion of their catastrophic hurricane losses. More recently, in 2002, the Florida Citizens Property Insurance Corporation was created to serve as an insurer of last resort but has grown to become the state's largest property insurer. Both of these state insurance programs are part of a system that seeks to maintain low insurance rates, and both programs continue to face large funding shortfalls in meeting their potential obligations to pay claims.

H.R. 2555 seeks to shift a large portion of the financial burden of natural catastrophe risk management from underfunded state insurance programs, like those in Florida, to the Federal government. Even within the State of Florida, there is an ongoing debate over the fairness of imposing assessments on all residents across the state to cover the shortfalls caused by charging inadequate insurance rates for properties located in vulnerable coastal areas.

During the Committee's consideration of H.R. 2555, Representatives Capito and Garrett offered a Republican substitute that would establish an independent blue-ribbon commission to study regional catastrophe risk management challenges and explore global risk management opportunities. We believe an independent commission of experts is needed to evaluate the full range of alternatives to promote more effective loss mitigation strategies and encourage more stable private insurance and reinsurance markets in high-risk regions. The Capito-Garrett amendment would direct the Commission to report to Congress before the beginning of the 2011 hurricane season. This would enable Congress to consider and act upon the Commission's recommendations in a timely fashion.

Instead of creating new programs that will lead to Federal bailouts for underfunded state catastrophe insurance programs, we should be exploring market-based risk-management alternatives and developing more comprehensive strategies to help minimize the financial threats of natural disasters.

Now is the wrong time to increase the American taxpayer's exposure to new liabilities while we are trying to rein in spending and reduce the deficit. The best way to drive insurance premium rates down and to expand capacity is to promote more private sector competition in the marketplace rather than intervening with costly new government programs.

Spencer Bachus.

Scott Garrett.

Frank Lucas.

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Mike Castle.

Shelley Moore Capito.

Randy Neugebauer.

Walter Jones.

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